

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

SHAUN ROSIERE,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

Case No. 2:16-cv-02286-GMN-PAL

**ORDER**

(Mots. – ECF Nos.  
37, 47, 48, 49, 53, 55, 56, 57)

This matter is before the court on Plaintiff Shaun Rosiere’s Motion for Summary Judgment (ECF No. 37); Motion for Demand for Judgment (ECF No. 47); Motion to Stay Proceedings Motion for Summary Judgment (ECF No. 48); Motion to Stay Proceedings (ECF No. 49); Motion to Withdraw (ECF No. 53); Motion for Sanctions (ECF No. 55); Motion Challenging Jurisdiction of Colorado District Court (ECF No. 56); and Motion to Stay Motion to Withdraw Document (ECF No. 57). These Motions are referred to the undersigned pursuant to 28 U.S.C. § 636(b)(1)(A) and LR IB 1-3 of the Local Rules of Practice.

On May 23, 2016, Mr. Rosiere commenced this action by filing a complaint and motion for leave to proceed *in forma pauperis* in the United States District Court for the Northern District of California. It is an action filed under the Freedom of Information Act seeking documents from two criminal cases filed against Rosiere in 2008 and 2009 in the District of New Jersey, and a civil forfeiture action filed in 2005 in the District of Colorado. Defendant United States of America (the “government”) filed a Motion to Dismiss for Improper Venue, or Alternatively to Transfer Venue (ECF No. 12). On September 27, 2016, the court granted the government’s motion and entered an order transferring this case to the District of Nevada where Rosiere resides. *See* Order (ECF No. 33).

1           The government has now filed a second Motion to Dismiss (ECF No. 42). The motion to  
2       dismiss argues that this case is duplicative and “nearly-duplicative” FOIA litigation Rosiere has  
3       initiated in multiple federal districts and should therefore be dismissed as “malicious” under 28  
4       U.S.C. 1915(e)(2)(B)(i). The government’s motion to dismiss in this case points out that District  
5       Judge assigned to Rosiere’s District of Colorado case has dismissed his case as both duplicative  
6       of this action and a New Jersey FOIA case, 3:16-cv-00341-FLW-TJB.


7           On November 1, 2016, the court held a case management conference and hearing on the  
8       Rosiere’s Motion to Compel (ECF No. 38) and the government’s Motion to Stay (ECF No. 43).  
9       *See* Mins. of Proceeding (ECF No. 58). Mr. Rosiere appeared pro se and Patrick Rose appeared  
10      on behalf of the government. Mr. Rosiere explained that he is currently on federal supervision,  
11      and as a result cannot travel to New Jersey or Colorado where most of the documents he seeks are  
12      located, as his travel is restricted by the conditions of his supervision. He recently received a letter  
13      from government counsel in the District of New Jersey indicating that they would be addressing  
14      his FOIA requests in that district but wants to proceed with his case here because he has been  
15      making requests for years and still has not obtained all of the document and information he believes  
16      he is entitled to receive under FOIA. After hearing from both parties regarding the status of the  
17      case and related litigation in other districts, the court denied without prejudice Rosiere’s Motion  
18      to Compel and granted the government’s Motion to stay discovery and other proceedings, pending  
19      a decision on the government’s Motion to Dismiss ECF. No 42). *See* Mins. of Proceeding (ECF  
20      No. 58). The court set a status conference for February 7, 2017, at 10:00 AM.

21          The court will deny Rosiere’s pending motions without prejudice because the  
22      government’s motion to dismiss is potentially dispositive of the entire case, and because  
23      government counsel in the District of New Jersey, where Rosiere has another pending FOIA case  
24      is processing his requests for the same information sought here. Rosiere may refile motions  
25      authorized under the of the Federal Rules of Civil Procedure, the Local Rules of Practice, and  
26      applicable case law if the government’s motion to dismiss is denied.

**IT IS ORDERED:**

1. Plaintiff Shaun Rosiere's Motion for Summary Judgment (ECF No. 37); Motion for Demand for Judgment (ECF No. 47); Motion to Stay Proceedings Motion for Summary Judgment (ECF No. 48); Motion to Stay Proceedings (ECF No. 49); Motion to Withdraw (ECF No. 53); Motion for Sanctions (ECF No. 55); Motion Challenging Jurisdiction of Colorado District Court (ECF No. 56); and Motion to Stay Motion to Withdraw Document (ECF No. 57). are **DENIED without prejudice**.
2. Discovery and other proceedings in this case are stayed pending decision of the government's Motion to Dismiss (ECF No 42).
3. A status hearing is set for **February 7, 2017 at 10:00 a.m.** The hearing will be vacated if the district judge has not yet decided the government's Motion to Dismiss.

Dated this 9th day of November, 2016.

  
PEGGY A. LEEN  
UNITED STATES MAGISTRATE JUDGE